

Remarks/Traverse/Arguments

In the Office Action, paper no. 7, the examiner restricted examination to one of the following inventions under 35 U.S.C. 121:

- I. Claims 1-5, 14, 16, drawn to a shelf with a concave beveled surface, classified in class 379, subclass 466.
- II. Claim 10, drawn to a shelf having a specific notch and a specific stem, classified in class 379, subclass 454.
- III. Claims 6-9, 11-13, 15, drawn to a shelf having a specific channel and guide ridges, classified in class 224, subclass 482.

The application provisionally elects the group I claims 1-5, 14, 16.

Traverse of Restriction Requirement:

Claims 1-5 in Group I, claim 10 in Group II, and claims 6-9 in Group III were all in the patent application as filed, and the examiner has already examined all of those claims on the merits, i.e., has already examined all three of the Group I, II, and III inventions on the merits, in the previous office action, Paper No. 5. Also, the applicant has already expended a substantial amount of time and effort to respond to the examiner's rejections in Paper No. 5 of all the claims 1-10 covering all the Groups I, II, and III inventions.

The applicant acknowledges that, according to 37 C.F.R. 1.142(a), a restriction can be made any time before final action at the discretion of the examiner. However, according to MPEP §811:

This means the examiner should make a proper [restriction] requirement as early as possible in the prosecution, in the first action if possible, otherwise, as soon as the need for a proper requirement develops.

Before making a restriction requirement after the first action on the merits, the examiner will consider whether there will be a serious burden if restriction is not required.

As mentioned above, there were original application claims in each of the Groups I, II, and III from the beginning, so the restriction requirement did not develop from the applicant's addition of new claims 14, 16 for the Group I invention and new claims 11-13, 15 for the Group III invention in the last Amendment, Paper No. 6. On the contrary, if there was a need for restriction, it was already present before the first action on the merits. However, since the examiner has already examined all of the Group I, II, and III inventions on the merits, and since applicant has already responded to that action by the examiner, applicant now requests the examiner to reconsider, according to MPEP §811, and find that it would not be a serious burden to forego the restriction requirement at this time, especially since the applicant believes that all of the claims are now in condition for allowance as explained above.

Therefore, the examiner is requested to reconsider and withdraw the restriction requirement in Paper No. 7.

35 U.S.C. §112, first paragraph issue:

The examiner also forewarned applicant of a potential 35 U.S.C. §112, first paragraph, rejection and objection on the drawings on claims having the combination of the "stem" and the "notch"/ "ridges". However, contrary to the examiner's assertion, Figure 10 is not the only drawing that shows the stem.

In this regard, the examiner's attention is invited to Figure 9 of the drawings and to the associated description in paragraph [0033] of the specification, which show and describe both a "stem region 94" and a "notch 97". Please note that claim 10 is directed primarily to this Figure 9 embodiment.

Dependent claims 5 and 9 are cancelled.

SUMMARY

As mentioned above, applicant believes that all of the pending claims have been examined and are in condition for allowance. Therefore, the Examiner is requested to withdraw the restriction requirement and to grant an early allowance. If any issues remain to be resolved, the examiner is requested to contact applicant's attorney at the telephone number listed below.

Respectfully Submitted,
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